

MEMORANDUM OF UNDERSTANDING

Between
THE UNITED
STATES COAST
GUARD

And

THE ENVIRONMENTAL PROTECTION AGENCY

* * *

A Mechanism for Funding Vendor Costs Incurred by the
U.S. Coast Guard During Emergency Response to Releases
or Threats of Releases of Hazardous Substances

PURPOSE:

The U.S. Coast Guard (USCG) and the Environmental Protection Agency (EPA) agree that a mechanism is required to fund USCG costs incurred during emergency response to releases, or the threats of releases of hazardous substances or pollutants or contaminants. This Memorandum of Understanding establishes the accounting, contracting, and fund management control policies and procedures for USCG response actions.

AUTHORITY:

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (94 Stat. 2796; 42 USC 9615) authorizes the President to respond to releases or threats of releases into the environment of hazardous substances, or pollutants or contaminants which may present an imminent and substantial danger to the public health or welfare. The Executive Order 12316 delegates certain authority and responsibility for response to the Administrator of the EPA and to the Secretary of Transportation. The USCG and the EPA are entering into this agreement in order to carry out their joint responsibilities under CERCLA and the Executive Order.

SCOPE:

The USCG and the EPA agree that vendor costs are costs incurred by the USCG in response to a specific incident of a release, or threat of a release, of hazardous substances.

The vendor costs are only those costs which qualify as allowable uses of the Substance Response Trust Fund when the USCG undertakes response activities pursuant to CERCLA, Executive Order 12316, and the National Oil and Hazardous Substances Contingency Plan. Examples of vendor costs include, but are not limited to, the following:

- contractor and consulting costs;
- lease or rental of equipment; and
- supplies, materials, and equipment (including transportation costs) procured for the specific response activity and expended during a response.

Vendor costs do not[^] include USCG out-of-pocket expenses which are:

- travel and per diem for military and civilian personnel, and overtime costs for civilian personnel;
- fuel for vessels, aircraft, or vehicles used in support of a response activity; and
- replacement or repair costs for non-expendable equipment.

Funding for out-of-pocket expenses and other non-vendor costs will be the subject of a separate agreement between the EPA and the USCG.

The Coast Guard will advise all of its District Commanders, predesignated On-Scene Coordinators (OSC), and Regional Response Team members of the terms of this Memorandum. The USCG will provide to EPA a current listing of District personnel who will serve as appropriate contacts for EPA on matters relating to contracting and accounting for response activity.

CONTRACTING AND ACCOUNTING:

The USCG and the EPA agree that the EPA will perform all accounting for vendor costs.

The USCG and the EPA agree that the contracting system used by the USCG for responses to oil and hazardous substance discharges under the authority of Section 311 of the Clean Water Act, shall be used for USCG responses to all releases or threats of releases of hazardous substances or pollutants or contaminants as defined in CERCLA,

Any contracts for immediate removal actions in response to releases or threats of releases of hazardous substances or pollutants or contaminants entered into by the Coast

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Guard, where the USCG OSC is acting in the capacity of first responding Federal official, pursuant to the National Contingency Plan, shall remain in effect only during the period that the USCG is the OSC.

Any contract for immediate removal actions in response to releases, or threats of releases, of hazardous substances or pollutants or contaminants, entered into by the Coast Guard pursuant to the authority delegated under Executive Order 12316, and retained by the USCG in Section (c) of the Instrument of Redelelegation, executed 2 October 1981 by the Secretary of Transportation and consented to on 9 October 1981 by the Administrator of the Environmental Protection Agency, shall remain in effect only during the period that the USCG is acting under this authority.

The USCG and the EPA agree on the following procedures for coordinating the EPA accounting system and the USCG contracting system.

1. -Obtain account number

For each incident where CERCLA funds are obligated, the USCG OSC must obtain a ten-digit account number from EPA Headquarters which identifies a specific site/spill incident. The number is obtained by calling:

Chief, Response Operations Branch
Emergency Response Division
Office of Emergency and Remedial Response
Environmental Protection Agency
401 M Street, S.W.
Washington, DC 20460
(202)245-3057

The USCG OSC will provide an estimate of the response costs concomitant with the request for an account number.

The ten-digit account number will not be issued unless CERCLA funds are available for the response action.

2. Accounting codes

Specific accounting information is required by the EPA Financial Management System in order to process response contracts. There are five categories of accounting and control numbers which must be entered on each contract and financial document. They are:

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Appropriation Number: This number **is** permanently assigned to the trust fund.

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Account Number: The ten-digit account number obtained for each incident from EPA Headquarters (see 11). The II and SS portions will **vary** to identify each separate release incident.

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Where: R = EPA Region where the release occurred
SS = Site/spill identification number ,

Document Control Number: The OSC will develop a set of document numbers for a specific release incident in the following format:

RSSXXX

Where: R = EPA Region where the release occurred
SS = Site/spill identification number
XXX = Contract document number

Each contract entered into relative to each release must have a unique document control number issued in ascending numerical sequence beginning with XXX = 001 for the first contract issued for that release. The R and SS portions are obtained from the Account Number.

For Example: RSS001 for 1st contract and its modifications
RSS002 for 2nd contract and its modifications

- o Object Class: This number is permanently assigned.

- o Amount of Contract in

Dollars

\$ _____

J. Transmit Contract to EPA

In order for EPA to process payments for response contracts, a legible certified true copy of the contract and modifications to the contract must be submitted

by certified mail within 72 hours of award by • USCG District Contracting Officer to the EPA paying office:

Financial Management Officer
Accounting Operations Office (MD-32)
Environmental Protection Agency
Research Triangle Park
Durham, NC 27711

The USCG will assure that the USCG contract number and the EPA accounting codes (appropriation number, account number, document control number, object class, and dollar amount) are clearly and legibly presented on the contract document. The USCG will assure that the EPA accounting codes and USCG contract number are made known to the contractor. The original contract will be retained by the USCG.

4. Process Contractor Invoices

4.1 Contractor

Responsibilities; The contractor will:

- o Send the original invoice to the EPA paying office. The address for the paying office is:

Financial Management Officer
Accounting Operations Office (MD-32)
Environmental Protection Agency
Research Triangle Park
Durham, NC 27711

- o Submit a duplicate **copy of the** invoice to the USCG **OSC**.
- o Assure that the USCG contract number and the EPA accounting

codes (appropriation number, account number, document control number, object class, and dollar amount) are clearly and legibly presented on the invoice and its copy. Contractors submitting invoices for work performed under a contract are to number each invoice sequentially beginning with one (1) and make a notation on the last invoice under the contract with the phrase "FINAL INVOICE."

4.2 USCG OSC Responsibilities:

- o The USCG OSC must certify each correct and proper invoice. A correct and proper Invoice Is one In which the services performed are acceptable and are consistent with the services billed and the accounting data properly transcribed.

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The certification statement to be used by OSC^{1*} of both agencies for all CERCLA cases.

"I, _____, certify to the best of my _____ (OSC NAME) knowledge and belief that the services have been performed and are accepted, and that applicable Pollution Incident Reporting System (PIRS) and EPA Spill Prevention Control and Counter measure (SPCC) information has been correctly and completely submitted."

(OSC* Signature)

(date)

- o The OSC will forward by certified mail the accepted and certified invoice, within 72 hours of receipt of the invoice from the contractor, to the EPA paying office (address shown above).
- o The USCG OSC shall not certify invoices which include discrepancies between services performed and services billed. In the event that there are discrepancies in the invoices, the USCG representative shall, immediately upon receipt of the invoice, take appropriate action to notify the contractor and to resolve the discrepancies.

Within 72 hours of receipt of an invoice containing unresolved discrepancies, the OSC shall forward the invoice by certified mail to the EPA paying office

(address shown above). The invoice will be endorsed with the following statement:

•This invoice contains unresolved discrepancies, DO NOT PAY THIS INVOICE UNTIL YOU RECEIVE WRITTEN NOTIFICATION THAT THE DISCREPANCIES HAVE BEEN RESOLVED AND THE INVOICE IS REISSUED."

(OSC signature)

(date)

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4.3 EPA Responsibilities:

- o *The* EPA has the responsibility to process contract Invoices and to make contract payments in a timely manner. Contract payments are normally made within 30 days after invoice receipt.
- o Payment will be contingent on the EPA paying office receipt of the original invoice from the contractor and the USCG OSCi certified copy of the invoice.
- o The paying office will withhold payment for contractor services if the OSC has not certified the invoice. Payments will be made when the discrepancies are resolved and the invoice is reissued and received at the paying office.
- o The paying office will not pay any response costs in excess of the dollar amount of the contract. In the event that a contractor's service exceeds the dollar amount of the contract, the EPA paying office will inform the USCG District Representative who will take appropriate action.

FINANCIAL MANAGEMENT:

The USCG and EPA agree that the USCG may obligate up to \$50,000 per release without prior approval from EPA. Approval to obligate amounts in excess of the \$50,000 ceiling must be obtained from:

Chief, Response Operations Branch
Emergency Response Division

Office of Emergency and Remedial Response
Environmental Protection Agency
401 M Street, 8. W.
Washington, DC 10460
(202) 245-3057

The USCG will modify, as necessary, any existing contracts to reflect each ceiling increase. Certified copies of the contract modification must be submitted to the EPA paying office.

The USCG and EPA recognize that CERCLA requires that response actions cease when \$1 million is obligated or 6 months have elapsed from the oate of initial response, except as authorized under Section 104(c)(1), thereof.

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REPORTING REQUIREMENTS: **POLEREPS**

The USCG and the EPA agree that the EPA, acting in the capacity as manager of the Hazardous Substance Response Trust Fund, requires up-to-date information on CERCLA response actions and the related obligations of CERCLA funds for these actions. Pollution Reports (POLREPS) are submitted by USCG OSC* to USCG District Commanders. POLREPS provide factual operational data relating to a release and a current accounting of project costs. The USCG OSC will submit a duplicate copy of all POLREP's to the Director, Emergency Response Division, EPA, (TWX I 710-8229269) for the purpose of communicating CERCLA response and fund obligation data to EPA. The initial POLREP will be sent within **24** hours of initiating a response action, if information is available. Once the initial report is completed, progress POLREPS should be sent on a routine basis.

PERIOD OF AGREEMENT:

This Memorandum shall continue in effect until modified or amended by the assent of both parties or terminated by either party upon a thirty (30) days advance written notice to the other party.

Nothing in this agreement is intended to diminish or otherwise affect the

statutory authority of the agencies involved.

This Memorandum will become effective at noon on the date of the last signature below.

W. E. Caldwell

W. E. CALDWELL
Rear Admiral U.S. Coast Guard
Chief, Office of Marine
Environment and Systems

12/10/81

DATE

Christopher J. Capper

CHRISTOPHER J. CAPPER
Acting Assistant Administrator
Office of Solid Waste and
Emergency Response

1/4/82

DATE

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